

## **Summary of U.S.-Chile FTA Temporary Entry Chapter**

### **General Principles**

- \$ Establishes understanding regarding the mutual desirability of facilitating temporary entry of business persons on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, while at the same time respecting the needs of the parties to ensure border security and protect the domestic labor force and permanent employment.
- \$ Clarifies that the provisions in this chapter do not apply to measures regarding citizenship, permanent residence, or employment on a permanent basis.

### **General Obligations**

- \$ Obligates parties to apply its measures relating to the provisions of this chapter in accordance with the agreed General Principles and, in particular, to apply expeditiously those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under the agreement.
- \$ Preserves ability of parties to regulate by clarifying that the provisions of the temporary entry chapter shall not prevent a party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to unduly impair or delay trade in goods or services or conduct of investment activities under the agreement.
- \$ Clarifies that the sole fact of requiring a visa for the admission of natural persons shall not be regarded as unduly impairing or delaying trade in goods or services or conduct of investment activities under the agreement.

### **Grant of Temporary Entry**

- \$ States basic commitment regarding the grant of temporary entry in accordance with the provisions of the chapter and its annexes.
- \$ Allows for possible refusal of issuance of an immigration document authorizing employment to a business person where the temporary entry of that person might affect adversely the settlement of any labor dispute that is in progress at the place or intended place of employment or the employment of any person who is involved in such dispute.

Such refusal is to be accompanied by written statement of the reasons for the refusal as well as prompt notification to the other party.

### **Provision of Information**

- \$ Covers provision of explanatory materials to acquaint parties with each other's measures relating to the chapter.
- \$ Commits parties to collect and maintain data regarding the granting of temporary entry under this chapter to business persons of the other party who have been issued immigration documentation.

### **Subcommittee on Temporary Entry**

- \$ Creates a Subcommittee on Temporary Entry to facilitate the administration of the provisions of the chapter.

### **Dispute Settlement**

- ~~\$~~ — Describes appropriate use of dispute settlement regarding temporary entry obligations. No dispute settlement for individual denials of entry.

### **Relation to Other Chapters**

- \$ Except for the provisions in this chapter and certain specified provisions outside this chapter (*e.g.*, on provision of information, contact points, etc.), the agreement does not impose any obligation regarding a party's immigration measures. Provisions of the temporary entry chapter do not impose obligations or commitments with respect to other chapters of the agreement.

### **Transparency in development and application of regulations affecting temporary entry for business persons**

- \$ Establishment of contact points or other mechanisms to respond to enquiries from interested persons regarding regulations.
- \$ Provision to interested parties of a concise statement addressing comments received on proposed regulations.
- \$ Allowance of reasonable time between publication of final regulations and their effective date.
- ~~\$~~ — At the request of the applicant, provision of information concerning the status of the application.

**Annex**  
**Temporary Entry for Business Persons**

The annex sets out commitments regarding the specific admission categories covered in the agreement, with a section devoted to each. In Chile, there are four sections covering the following admission categories: 1) Business Visitors, 2) Traders and Investors, 3) Intra-Company Transferees, and 4) Professionals.

**Section [I]**  
**Business Visitors**

- \$ Establishes obligation to grant temporary entry to a business person seeking to engage in a business activity set out in an accompanying appendix without requiring that person to obtain an employment authorization. The business activities in the appendix represent the business cycle from R&D to after-sales service.
- \$ Eliminates prior approval procedures, petitions, labor certification tests or other procedures of similar effect as conditions for temporary entry under the provisions of this section; it also commits parties to not impose or maintain any numerical restriction relating to temporary entry under the provisions of this section.
- \$ This section also provides that such business person demonstrate that the primary source of remuneration for the proposed business activity is outside the territory of the party granting temporary entry, and that the business person's principal place of business and the actual place of accrual of profits remain outside such territory.

**Section [II]**  
**Traders and Investors**

- \$ Commitment to grant temporary entry to a business person seeking to: 1) engage in substantial trade in goods between the parties, or 2) make or administer an investment.

**Section [III]**  
**Intra-Company Transferees**

- \$ Commitment to grant temporary entry to a business person employed by an enterprise who seeks to render services to that enterprise, its subsidiary or affiliate, in a capacity that is managerial, executive or involves specialized knowledge.
- \$ Establishes that a party may require the business person to have been employed continuously by

the enterprise for one year within the three-year period immediately preceding the date of the application for admission.

#### **Section IV Professionals**

- \$ Provides for temporary entry of a business person seeking to engage in a business activity as a professional, as defined within this section.
- \$ Establishes definition for professional based on educational requirements and the nature of the occupation.
- \$ Does not use the NAFTA approach of a closed list of professions.
- \$ Sets a permanent numerical limitation on annual entries into the United States under this admission category.

#### **Definitions** (key definitions include):

- \$ business person
- \$ temporary entry
- \$ immigration measure
- \$ national